

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

DWAYNE WALLACE,  
#A6052692,

Plaintiff,

vs.

JODY BRADLEY, *et al.*,

Defendants.

CIVIL NO. 24-00156 DKW-WRP

ORDER TO SHOW CAUSE

Before the Court is a Civil Rights Complaint by a Prisoner, ECF No. 1, and an Application to Proceed In Forma Pauperis by a Prisoner, ECF No. 2, filed by pro se Plaintiff Dwayne Wallace. Wallace is ORDERED TO SHOW CAUSE in writing on or before **April 30, 2024** why this action should not be dismissed or transferred for improper venue.

In general, a federal lawsuit may be brought in: (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claims occurred; or (3) if there is no district in which an action may otherwise be brought, any judicial district in which any defendant is subject to the court's personal jurisdiction. *See* 28 U.S.C. § 1391(b); *Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Tex.*, 571 U.S. 49, 55–56

(2013). The plaintiff bears the burden of showing that venue is proper in this district. *See Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979); *Spagnolo v. Clark County*, Civil No. 15-00093 DKW-BMK, 2015 WL 7566672, at \*2 (D. Haw. Nov. 24, 2015).

The Court may raise the issue of improper venue on its own so long as the defendant has not filed a responsive pleading and the parties are provided an opportunity to respond to the issue. *See Costlow v. Weeks*, 790 F.2d 1486, 1487–88 (9th Cir. 1986); *Emrit v. Horus Music Video Distrib.*, Civ. No. 20-00007 JMS-RT, 2020 WL 1822597, at \*3 (D. Haw. Apr. 10, 2020). If the Court finds that venue is improper, the Court must either dismiss the case or, in the interest of justice, transfer the case to a district where the case could have been brought. *See* 28 U.S.C. § 1406(a); *Atl. Marine Const. Co.*, 571 U.S. at 56.

Here, Wallace is a Hawaii state prisoner who is incarcerated at the Saguaro Correctional Center (“SCC”) in Eloy, Arizona. *See* ECF No. 1 at PageID.1; *see also* VINE, <https://vinelink.vineapps.com/search/HI/Person> (select “ID Number,” enter “A6052692,” and select “Search”)(last visited Apr. 8, 2024). In the Complaint, Wallace alleges that the SCC is “being unconstitutionally operated.” ECF No. 1 at PageID.5. Specifically, Wallace alleges that he was subjected to cruel and unusual punishment, and that his due process and equal protection rights were violated at the SCC. *Id.* at PageID.1. Wallace names one defendant—Jody

Bradley, who is an assistant warden at the SCC. *Id.*; see *Galdones v. Dep't of Pub. Safety*, No. 1:12-cv-00551 LEK/RLP, 2012 WL 5996714, at \*1 (D. Haw. Nov. 29, 2012).

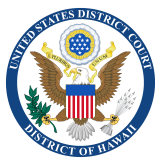
Based on the foregoing, it appears that venue is improper in this district. The Complaint does not allege any basis for venue in the District of Hawaii. Wallace does not allege that any defendant resides in this district. Further, the underlying claims are based on events at the SCC, which is in the District of Arizona. See 28 U.S.C. § 82 (stating that Arizona constitutes one judicial district). Although Wallace may have been convicted in a Hawaii state court, that fact is not determinative of venue for purposes of this lawsuit. See *Murphy v. Kimoto*, Civ. No. 15-00022 LEK/RLP, 2015 WL 1279431, at \*2–3 (D. Haw. Mar. 20, 2015) (concluding that the District of Arizona was the proper venue for Hawaii state inmate's claims against SCC officials).

Accordingly, Wallace is ORDERED TO SHOW CAUSE in writing on or before **April 30, 2024** why this action should not be dismissed or transferred for improper venue. ALTERNATIVELY, Wallace may submit written consent on or before **April 30, 2024** to transfer the case to the District of Arizona. Wallace is

cautioned that if he does not comply with the Court's instructions, this case will be dismissed without prejudice.

IT IS SO ORDERED.

DATED: April 8, 2024 at Honolulu, Hawai'i.



/s/ Derrick K. Watson

Derrick K. Watson  
Chief United States District Judge

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